

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 202103568	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/11/2021 4:20 AM, Friday, 06/11/2021 4:25 AM	Location of Incident: East 115th Street and Pleasant Avenue; 120 East 119th Street (25th Precinct stationhouse)	18 Mo. SOL 12/11/2022	Precinct: 25		
Date/Time CV Reported Fri, 06/11/2021 4:02 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/11/2021 4:02 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Justin Senese	21424	959978	025 PCT
2. PO Edwin Howell	03889	961823	025 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Zhong Ying	05394	937772	025 PCT
2. POM Nicholas Lamere	23697	969878	025 PCT
3. SGT Maurice Grant	04698	928415	025 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Justin Senese	Abuse: At the intersection of East 115th Street and Pleasant Avenue, Police Officer Justin Senese questioned an individual.	
B . POM Justin Senese	Abuse: At the intersection of East 115th Street and Pleasant Avenue, Police Officer Justin Senese frisked an individual.	
C . POM Justin Senese	Abuse: At the intersection of East 115th Street and Pleasant Avenue, Police Officer Justin Senese searched an individual.	
D . POM Justin Senese	Abuse: At the intersection of East 115th Street and Pleasant Avenue, Police Officer Justin Senese failed to provide an individual with a business card.	
E . PO Edwin Howell	Abuse: At the 25th Precinct stationhouse, Police Officer Edwin Howell conducted a sexually motivated frisk of § 87(2)(b)	
F . POM Justin Senese	Abuse: At the 25th Precinct stationhouse, Police Officer Justin Senese obstructed his shield number.	

Case Summary

On June 11, 2021, § 87(2)(b) filed this complaint on behalf of herself, her son, § 87(2)(b) his friend, § 87(2)(b) and another unknown individual with the CCRB by phone.

On June 11, 2021, at approximately 4:20 a.m., PO Justin Senese and PO Edwin Howell, both of the 25th Precinct, stopped § 87(2)(b) who was driving with his friends, § 87(2)(b) and § 87(2)(b) for an improperly displayed license plate at the intersection of East 115th Street and Pleasant Avenue in Manhattan. PO Senese determined that § 87(2)(b) was driving with a suspended license and requested that Sgt. Maurice Grant and his driver, PO Nicholas Lamere, also both of the 25th Precinct, respond to the location. PO Senese asked § 87(2)(b) and § 87(2)(b) to exit the vehicle, which they did. PO Senese frisked and searched § 87(2)(b) (no corresponding allegations were pleaded as § 87(2)(b) was searched subject to arrest), and then asked § 87(2)(b) “Do you have anything on you that you’re not supposed to?” (**Allegation A: Abuse of Authority – Question,** § 87(2)(g) PO Senese then frisked and searched § 87(2)(b) (**Allegation B: Abuse of Authority – Frisk,** § 87(2)(g) **Allegation C: Abuse of Authority – Search (of person),** § 87(2)(g) Sgt. Grant asked § 87(2)(b) to exit the car, which she did, and no officer frisked or searched her.

Prior to leaving the location, PO Senese did not provide § 87(2)(b) with a business card (**Allegation D: Abuse of Authority – Failure to Provide RTKA Card,** § 87(2)(g)

That same day, at approximately 4:25 a.m., at the 25th Precinct stationhouse, PO Senese completed § 87(2)(b) pedigree information while PO Howell conducted the search in front of the desk. During the search, PO Howell allegedly made inappropriate contact with § 87(2)(b) testicles over his clothing (**Allegation E: Abuse of Authority – Sex Misconduct (Sexually Motivated Frisk),** § 87(2)(g)

Shortly after § 87(2)(b) was lodged in a holding cell, § 87(2)(b) came to the stationhouse to inquire about why he had been arrested. § 87(2)(b) spoke with PO Senese, who allegedly was not wearing his shield while speaking with her (**Allegation F: Abuse of Authority – Obstructed Shield Number,** § 87(2)(g) Because she did not see a shield, § 87(2)(b) asked for his shield number, which he provided.

§ 87(2)(b) was arrested for driving without a license, an improperly displayed license plate, aggravated unlicensed operation of a motor vehicle, and criminal possession of a controlled substance (**BR 01**). No other arrests or summonses resulted from this incident.

Body-worn camera footage was obtained from PO Senese (**BR 02, BR 03, BR 04, and BR 05**), PO Howell (**BR 06, BR 07, and BR 08**), Sgt. Grant (**BR 09 and BR 10**), and PO Lamere (**BR 11 and BR 12**). Security footage was obtained from 283 Pleasant Avenue in Manhattan (**BR 13, BR 14, BR 15, BR 16, and BR 17**). Stationhouse footage was obtained from the 25th Precinct (**BR 18, BR 19, BR 20, and BR 21**). There was no additional video of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: At the intersection of East 115th Street and Pleasant Avenue, Police Officer Justin Senese questioned an individual.

Allegation (B) Abuse of Authority: At the intersection of East 115th Street and Pleasant Avenue, Police Officer Justin Senese frisked an individual.

Allegation (C) Abuse of Authority: At the intersection of East 115th Street and Pleasant Avenue, Police Officer Justin Senese searched an individual.

Allegation (D) Abuse of Authority: At the intersection of East 115th Street and Pleasant Avenue, Police Officer Justin Senese failed to provide an individual with a business card.

It was undisputed that PO Senese and PO Howell stopped § 87(2)(b) for driving with an improperly displayed license plate, which had been affixed to the interior back windshield on the bottom of the passenger side of the car.

§ 87(2)(b) (**BR 22**) stated that when he pulled over, PO Senese approached him at the

front driver's seat, and PO Howell approached § 87(2)(b) at the front passenger seat. § 87(2)(b) was seated in the back seat on the driver's side. PO Senese asked § 87(2)(b) for his license and registration, which he retrieved from a small, black, cross-body Prada bag that also contained approximately \$2,000 in denominations ranging from \$5 to \$100 bills, and an orange prescription pill bottle for antibiotics that had been prescribed to his child's mother, who was not present in the vehicle. § 87(2)(b) gave his license and registration to PO Senese, who returned to his police vehicle with PO Howell.

After approximately five minutes, PO Senese and PO Howell returned to the same positions by § 87(2)(b) car. PO Senese returned § 87(2)(b) license and registration and asked him if he could search his car. When § 87(2)(b) refused, PO Senese and PO Howell returned to their vehicle a second time. Less than five minutes later, PO Senese and PO Howell came back and asked him to step out and walk to the back of his car. At the back of his car, § 87(2)(b) saw that Sgt. Grant and PO Lamere had also arrived at the location. PO Senese patted down the outside of § 87(2)(b) clothing and then asked § 87(2)(b) and § 87(2)(b) to exit the car, which they did. § 87(2)(b) did not see PO Senese frisk or search § 87(2)(b) and § 87(2)(b) did not ever describe to § 87(2)(b) that he had been frisked or searched.

§ 87(2)(b) statement (BR 23) was generally consistent with that of § 87(2)(b) with the following exceptions noted. When § 87(2)(b) exited the car, he stood between the front and back passenger doors, and PO Senese patted down the exterior of § 87(2)(b) clothing and put his hands into § 87(2)(b) front pants pockets. PO Senese told § 87(2)(b) to go to the back of the car and then asked § 87(2)(b) to exit, which he did. PO Senese patted down the exterior of § 87(2)(b) clothing. § 87(2)(b) told PO Senese that he had keys in his pocket and that he could remove them if he wanted. PO Senese reached into § 87(2)(b) pocket, removed the keys, and then returned them to § 87(2)(b) at which time he told § 87(2)(b) to go to the back of the car with § 87(2)(b). Sgt. Grant then told § 87(2)(b) to exit the car, which she did.

§ 87(2)(b) was contacted by the investigation, but he declined to provide his full name or a statement to the investigation (BR 24).

§ 87(2)(b) was not present for this portion of the incident (BR 25) but stated that she was on the phone with § 87(2)(b) and heard the initial conversation between § 87(2)(b) and PO Senese. She did not hear any references to officers frisking or searching any of the occupants of the car.

Body-worn camera footage from PO Senese (BR 02 and BR 05) and PO Howell (BR 06 and BR 08), and security footage from 283 Pleasant Avenue (BR 13, BR 14, BR 15, BR 16, and BR 17) captured this portion of the incident.

In PO Senese's body-worn camera footage, beginning at 1:02 minutes, PO Senese explains to § 87(2)(b) that he pulled him over for his license plate and asks § 87(2)(b) for his license and registration, which § 87(2)(b) retrieves from his bag, the contents of which are not visible in the frame. Having received the license and registration, PO Senese and PO Howell go back to their car. Inside the car, PO Senese tells PO Howell that he suspects that there are drugs in the car because of the amount of money he saw inside § 87(2)(b) bag. At 6:28 minutes, PO Senese says, "He's 511, but I'm going to see if he'll let me search the car." PO Senese approaches § 87(2)(b) asks him if he can search the car, and, when § 87(2)(b) says no, PO Senese returns to his car.

At 9:55 minutes, PO Senese calls Sgt. Grant and tells him, "We have a car stop 115 and Pleasant right now. The guy's just 511 and, like, when I went up to the car, he has, like, a fanny pack filled with cash, so I think there's more in the car. So, I ask him if I could search the car, and he was like, "Yea, no. You're not searching the car." So, I said, 'okay.' But he's 511, so he good to go, so I just wanted to call you to see if I can bring him in or nor or...that's up to you." At 14:00 minutes, Sgt. Grant arrives at the location, and PO Senese tells him, "Like I said, he's acting like, really weird. He has like a fucking...there's a passenger in the back seat, there's a passenger in the car, and when he went to go dig through his wallet, he had a fanny pack filled with, like, hundreds,

and like a bunch of shit, like maybe like drugs or something, or like, whatever. And, like I said, he's just 511, so it's not a big deal if I let him go, but that's...I wanted to give you that call." Sgt. Grant responds, "If you've got an arrestable offense..."

At 14:55 PO Senese instructs § 87(2)(b) to step out of the car, which he does. At 15:06 minutes, PO Senese says, "Once again, do you have nothing on you that you're supposed to have, nothing in the car that you're supposed to have?" § 87(2)(b) says that he does not and asks if the officers have their cameras on. Beginning at 15:12 minutes, PO Senese feels the exterior of § 87(2)(b) front shorts pockets, his waist, and his torso and then tells § 87(2)(b) to go to the back of his car, which he does.

Beginning at 15:26 minutes, PO Senese opens the back driver's side door and asks the back passenger for his name. The back passenger answers, § 87(2)(b). PO Senese asks him, "Do you have anything on you that you're not supposed to? I'm going to have to check, ok?" § 87(2)(b) responds, "Nah. Do your thing. It's fine." PO Senese pats down the exterior of § 87(2)(b) shorts and asks him if there are keys in his pocket. § 87(2)(b) says that there are and tells PO Senese that he can take them out if he wants. At 15:42 minutes, PO Senese puts his hand into § 87(2)(b) front right shorts pocket, takes out his keys, puts them back, and tells § 87(2)(b) to go to the back of the car. At 16:04 minutes, Sgt. Grant asks the front passenger, § 87(2)(b) to step out of the car, which she does. § 87(2)(b) walks to the back of the car, and no officers frisk or search her.

By 21:43 minutes, PO Senese is driving away from the location. He does not ever offer a business card to § 87(2)(b).

PO Howell's, Sgt. Grant's, and PO Howell's body-worn camera footage, as well as the security footage, was consistent with that of PO Senese.

PO Senese (**BR 25**) stated that when § 87(2)(b) provided him with his license and registration, he observed a large amount of paper currency in § 87(2)(b) bag, but he could not estimate how much. Based on this, he had a heightened suspicion that there might be weapons or narcotics in the car. PO Senese made no additional observations that increased his suspicions. Having received the license and registration, he and PO Howell returned to their vehicle, where PO Senese determined that § 87(2)(b) license was suspended, at which time PO Senese considered § 87(2)(b) to be under arrest. At some point, PO Senese or PO Howell notified Sgt. Grant so that he could verify the arrest at the location.

PO Senese approached § 87(2)(b) again, asked him to step out of the vehicle, patted down the exterior of his clothing, and asked him to step to the back of the car. PO Senese could not recall if he went into any of § 87(2)(b) pockets. PO Senese then asked § 87(2)(b) to exit the vehicle, which he did. PO Senese asked § 87(2)(b) if he could frisk and search him so that he could check him for weapons as he had with § 87(2)(b). § 87(2)(b) said that he could, and PO Senese patted down § 87(2)(b) pockets and went into his pockets, but he was not sure if he removed anything from his pockets. PO Senese did not recall making any observations that indicated that § 87(2)(b) was in possession of a weapon other than the fact that there was a bag in the car that contained a large sum of money and that the frisk and search were based on § 87(2)(b) verbal consent. PO Senese then asked § 87(2)(b) to move to the back of the car with § 87(2)(b).

PO Senese asked another officer, he was not sure who, to ask § 87(2)(b) out of the car, and she also stood at the back with § 87(2)(b) and § 87(2)(b).

PO Senese did not offer § 87(2)(b) a business card because it was his understanding at the time that he was only required to provide them when specifically requested and during pedestrian stops when a stop report was completed.

PO Howell's statement (**BR 27**) was consistent with that of PO Senese with the following exceptions noted. Upon initial approach, PO Howell went to the passenger side of the car. He did not recall making any observations of the interior of the vehicle and did not recall ever seeing a bag containing currency inside the car. Once PO Senese determined that § 87(2)(b) was under arrest for driving with a suspended license, PO Howell stood by the trunk while PO Senese approached § 87(2)(b) who exited the car. After he was frisked, § 87(2)(b) went to the trunk of the car by

PO Howell. Both of the other passengers then exited the vehicle, but PO Howell could not recall if anyone frisked or searched either of them. PO Howell did not recall observing anything that he suspected was a weapon on any of the occupants of the vehicle, nor did he recall suspecting that anyone was in possession of a weapon.

Sgt. Grant's statement (**BR 28**) was consistent with those of PO Senese and PO Howell with the following exceptions noted. When Sgt. Grant arrived at the location, he verified PO Senese's arrest of § 87(2)(b) for driving with a suspended license. Sgt. Grant did not recall if PO Senese described any additional observations he made in the vehicle or if he saw a bag containing a large amount of currency. PO Senese patted down § 87(2)(b) when he exited the car. Sgt. Grant then asked § 87(2)(b) to exit the car, which she did. Sgt. Grant did not recall there being a back passenger in the car and did not recall if he ever saw PO Senese frisk or search any other individuals besides § 87(2)(b) who was under arrest at the time.

§ 87(2)(b) was arrested for driving without a license, an improperly displayed license plate, aggravated unlicensed operation of a motor vehicle, and criminal possession of a controlled substance (**BR 01**).

No consent to search forms were completed in regard to this incident (**BR 29**).

It was undisputed that PO Senese and PO Howell pulled § 87(2)(b) over for having an improperly displayed license plate and that § 87(2)(b) was subsequently arrested. PO Senese had a heightened sense of suspicion that there may have been weapons or narcotics in the vehicle because he observed a large sum of paper currency in § 87(2)(b) bag. PO Senese made no other observations that made him suspect that any of the occupants of the vehicle were in possession of any weapons.

After frisking § 87(2)(b) subsequent to arrest, PO Senese asked the back passenger of the vehicle, § 87(2)(b) to exit. Body-worn camera footage captured PO Senese ask § 87(2)(b) after he exited the vehicle, "Do you have anything on you that you're not supposed to? I'm going to have to check, okay?" § 87(2)(b) tells him, "Do your thing. It's fine." Having received § 87(2)(b) consent PO Senese patted down his pockets and, feeling something, asked if they were § 87(2)(b) keys. § 87(2)(b) replied that they were and told PO Senese that he could take them out if he wanted. PO Senese reached into the pocket, removed the keys, and put them back in the pocket. PO Senese stated that his frisk and searched were based on § 87(2)(b) verbal consent and could not recall any specific observations he made that § 87(2)(b) was in possession of a weapon or otherwise involved in criminal activity.

PO Senese did not provide a business card to § 87(2)(b) because he did not request one.

According to People v. De Bour, 40 N.Y.2d 210 (**BR 30**) officers may ask an accusatory question if they have founded suspicion that criminal activity is present. Officers may frisk a detainee should they reasonably suspect that they are in danger of physical injury by virtue of the detainee being armed.

Patrol Guide procedure 212-11 (**BR 31**) states that officers may ask pointed and accusatory questions and can request consent to search only when the officer has a founded suspicion that criminal activity is afoot. The consent must be voluntary and asked in a way that elicits a clear "yes" or "no" answer. Officers must prepare a common law right of inquiry—consent search form, documenting the time, location, and date of such request, consent, refusal, and search (if performed), and the pedigree information of the person who was the subject of such request and search. The officer involved in the search or request is required to offer the individual a business card.

New York City Administrative Code 14-173 (**BR 32**) states that when obtaining consent to search, the officer(s) must articulate, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to consent to such search voluntarily, knowingly, and intelligently, and explain that such search will not be conducted if such person refuses to provide consent to such search. The officer(s) must document the time, location, and date of such search, and the apparent race/ethnicity, gender, and age of the person who was the

subject of such search, and such officer's name, precinct, and shield number.

Per Patrol Guide procedure 203-09 (**BR 33**) and New York City Administrative Code 14-174 (**BR 34**), members of service are to offer a business card at the conclusion of certain law enforcement activities, including frisks and searches of persons which do not result in an arrest or summons.

Although PO Senese arrested § 87(2)(b) for driving with a suspended license, PO Senese did not articulate any specific suspicions that § 87(2)(b) was in possession of a weapon or otherwise involved in any criminal activity. While PO Senese stated that he asked for and received permission to frisk and search prior to doing so and that he suspected that there may have been narcotics or weapons in the car because of the presence of a large amount of currency in § 87(2)(b) bag, money, in and of itself, is not indicative of criminality. Additionally, PO Senese believed the bag belonged to § 87(2)(b) and not § 87(2)(b) § 87(2)(g)

§ 87(2)(b)
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§ 87(2)(b) PO Senese did not follow proper protocol when asking for consent by informing him that he could refuse consent and by not completing a consent to search form. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation (E) Abuse of Authority: At the 25th Precinct stationhouse, Police Officer Edwin Howell conducted a sexually motivated frisk of § 87(2)(b)

§ 87(2)(b) (**BR 22**) stated that when they arrived at the 25th Precinct stationhouse, PO Senese and PO Howell led him to the front desk, where PO Howell told him that he needed to search him. PO Howell swiped up the interior of § 87(2)(b) thigh with an open palm up the right side and then slowed to pat, still with an open palm, § 87(2)(b) right and then left testicle before swiping down his left inner thigh. As PO Howell did this, he said that they were “going to be gentlemen about this.” PO Howell did not make contact with any other parts of § 87(2)(b) genitalia. However, § 87(2)(b) felt that PO Howell’s contact with his testicles was “not right” because PO Howell had slowed his motions when making contact with his testicles. While PO Howell had moved his hand quickly while swiping up his inner thigh, he had slowed his motions for approximately one half to one second while tapping his testicles. § 87(2)(b) was shocked and caught off guard by the contact, and he could not further describe the physical sensations of the contact. Because of his general sense of shock, § 87(2)(b) did not recall where else on his body PO Howell touched him. § 87(2)(b) did not want to escalate the situation, so he did not say anything at the time about his concerns regarding the contact with his testicles.

After the search, PO Howell led § 87(2)(b) to a holding cell.

§ 87(2)(b) (**BR 23**) and § 87(2)(b) (**BR 25**) were not present for this portion of the incident.

§ 87(2)(b) declined to provide a statement to the investigation (**BR 24**).

PO Howell (**BR 27**) stated that when they arrived at the stationhouse, he and PO Senese led § 87(2)(b) to the front desk to begin processing his arrest. PO Howell stood with § 87(2)(b) opposite the desk while PO Senese filled out § 87(2)(b) pedigree information and completed the intake paperwork. PO Howell informed § 87(2)(b) that he would be searching him again and asked him if he had any sharp items on his person that might injure him during the search and whether he was wearing boxers. PO Howell explained that he asked this because sometimes people wear two pairs of shorts instead of boxers. In such cases, it is important for the officer conducting the search to take care to search any pockets in the pair of shorts closest to the body for any

additionally concealed items. If an individual were only wearing boxers, this would not be necessary. PO Howell added that the only reason he asked this question was so that he would know what to expect when conducting the search.

§ 87(2)(b) responded that he was wearing boxers, and PO Howell conducted a search according to procedure for the purposes of ensuring he did not possess any weapons or contraband prior to being lodged in the cells. There was no other purpose for conducting this search, which PO Howell conducted in the same manner in which he conducted all searches at the stationhouse in front of the desk and prior to lodging someone in the cells. PO Howell was asked if there are any specific areas on the body that he pays attention to where someone may be secreting a weapon or other contraband, and PO Howell indicated that, for a male, he would pay attention to “the area in between the legs.”

PO Howell started the search by removing § 87(2)(b) hat and checking the hat and § 87(2)(b) hair, patting his neck, his torso, his waistband, and his pockets. He then patted down § 87(2)(b) inner thighs and over the genital area with the back of one of his hands using a continuous, smooth, and light patting motion starting at the bottom of one leg, up the thigh area, over the genital area, and then down the other leg. PO Howell did not slow his pace at any point while making this motion, and his hand did not linger at the genital area. PO Howell could not recall if he made any specific contact with § 87(2)(b) penis or testicles when he did that, just that he patted the general genital area. The purpose of this contact was only to check for weapons or other contraband, and PO Howell reiterated that it was done based on procedure and conducted in the manner he conducts all stationhouse searches. While conducting the search, § 87(2)(b) remained polite and cordial, and his demeanor did not appear to change over the course of the search.

Once the search was completed, PO Howell and PO Senese led § 87(2)(b) to the holding cell area, and PO Howell had no further interactions with him.

PO Senese (**BR 26**) did not have an independent recollection of taking § 87(2)(b) pedigree information or of PO Howell searching him.

Sgt. Grant (**BR 28**) did not recall observing PO Howell search § 87(2)(b) at the stationhouse. Sgt. Grant viewed video stationhouse footage and PO Howell’s body-worn camera footage, and, while it did not refresh his memory of the incident, he noted that he did not observe anything that he deemed inappropriate in the way PO Howell conducted the search.

Body-worn camera footage from PO Howell (**BR 06** and **BR 08**), PO Senese (**BR 02** and **BR 05**), and stationhouse house footage (**BR 18** and **BR 20**) capture this portion of the incident.

In PO Howell’s body-worn camera footage, beginning at 25:13 minutes, § 87(2)(b) stands inside the 25th Precinct stationhouse opposite the front desk. At 27:17 seconds, PO Howell says, “I’m just going to check you while I’m here.” PO Howell moves from § 87(2)(b) right side to his left and says, “You left everything in the car basically, right?” PO Howell’s hands are not visible in the frame and it is not clear what contact he is making with § 87(2)(b) who is only visible from the waist up. At 27:25 minutes, PO Howell asks, “You’ve got boxers on?” § 87(2)(b) says, “Huh?” PO Howell repeats, “You’ve got boxers on, right?” § 87(2)(b) says that he does. PO Howell says, “It’s summertime. You never know.” PO Howell’s hands are not visible.

At 27:30 minutes, PO Howell lifts § 87(2)(b) hat and says, “I’ll do my thing. We’ll get you inside...okay?” PO Howell puts § 87(2)(b) hat back on, and continues, “You’ve been through the process before,” as he taps § 87(2)(b) upper chest. PO Howell, who is on § 87(2)(b) left side, lowers his hands outside of the frame. PO Howell then moves to § 87(2)(b) right side as he asks § 87(2)(b) if he wants to talk about the last time he was processed. PO Howell moves to § 87(2)(b) back and, at 27:48 minutes, his right hand is briefly visible patting down the right side of § 87(2)(b) torso.

Beginning at 28:01 minutes, PO Howell, who is on § 87(2)(b) left side, bends toward § 87(2)(b) legs. PO Howell places his left hand over the top of the front of § 87(2)(b) shorts at the lower waist area and moves his hand swiftly upward and then down. The entirety of

the contact is not captured in the footage. PO Howell then moves to § 87(2)(b) right side. And places his right hand over the top of § 87(2)(b) shorts at the lower waist area and his left hand by § 87(2)(b) buttocks and swiftly moves both hands down his leg. PO Howell says, "Listen, you're a gentleman, alright." Another officer says something near the desk, and PO Howell tells § 87(2)(b) "That means we're going to take you in." At 28:30 minutes, PO Senese returns and takes § 87(2)(b) to a holding cell.

Stationhouse footage captures the search from 12:03 minutes until 12:51 minutes and is generally consistent with PO Howell's body-worn camera footage. Beginning at 12:46 minutes, PO Howell pats § 87(2)(b) inner right thigh with his left hand. He then walks to § 87(2)(b) left side and pats § 87(2)(b) inner left thigh with his right hand. PO Senese, PO Howell, and PO Lamere are present in the general area, but PO Senese and PO Lamere are facing away from § 87(2)(b) and Sgt. Grant is looking toward PO Senese and PO Lamere.

PO Senese's body-worn camera footage captures PO Senese facing the desk area while PO Howell searched § 87(2)(b) behind him.

Patrol Guide procedure 208-05 (BR 35) states that upon arrival at the precinct, an officer will conduct a thorough search of the prisoner's person and clothing to ensure the safety of all persons within the facility and to remove weapons, contraband, and evidence not discovered by the frisk. A search at the police facility includes the removal of outer garments. All pockets are to be emptied and all clothing not removed will be examined by grabbing, crushing, and squeezing the garments and by sliding the hands across the body to detect articles that may be underneath or sewn to clothing.

While it is undisputed that PO Howell searched § 87(2)(b) at the desk, § 87(2)(b) felt that the contact with his testicles was inappropriate, and PO Howell stated that he conducted the search per police protocols, which require officers to thoroughly check clothing and slide hands across the prisoner's body to search for items concealed beneath clothing. Body-worn camera footage and stationhouse footage capture the majority of the search, but do not comprehensively capture PO Howell's hands while at § 87(2)(b) groin area. Other officers present were not in a position to clearly view the contact, and there were no additional independent witnesses at the stationhouse. Furthermore, § 87(2)(b) did not make any comments at the time documenting that he felt the contact was inappropriate. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (F) Abuse of Authority: At the 25th Precinct stationhouse, Police Officer Justin Senese obstructed his shield number.

§ 87(2)(b) (BR 25) stated that she went to the 25th Precinct stationhouse shortly after § 87(2)(b) was arrested to determine what had happened to her son. When she arrived, she saw PO Senese, who was not wearing his shield. § 87(2)(b) asked him for his shield number, which he provided as 21425. § 87(2)(b) thought that PO Senese was rude because he would not disclose to her the specific reason why he had arrested § 87(2)(b).

§ 87(2)(b) (BR 23) walked with § 87(2)(b) to the stationhouse after § 87(2)(b) was arrested and met § 87(2)(b) there. While they waited for an officer to explain the situation to them, they heard PO Senese in another room talking about § 87(2)(b) Prada bag. When § 87(2)(b) heard this, she requested that he come out to the waiting area to speak to them, which he did. PO Senese was in uniform and his shield was clearly visible. PO Senese told them that § 87(2)(b) had been arrested for driving with a suspended license and that he would be released in a few hours. § 87(2)(b) § 87(2)(b) and § 87(2)(b) then all left the stationhouse.

§ 87(2)(b) (BR 22) was in the holding cells and did not witness this portion of the incident.

§ 87(2)(b) declined to provide a statement to the investigation (BR 24).

PO Senese (BR 26) had no recollection of interacting with § 87(2)(b) or § 87(2)(b) at the stationhouse and could not recall if he ever removed his shield during the time he was at the stationhouse processing § 87(2)(b) arrest.

PO Howell (BR 27) and Sgt. Grant (BR 28) did not recall ever seeing PO Senese not wearing his shield.

There was no video of this portion of the incident.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 36).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 37).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 38).
- PO Senese has been a member of service for six years and has been a subject in five CCRB complaints and seven allegations, one of which was substantiated.
 - 201800068 involved a substantiated allegation of a premises entry and search. The Board recommended Command Discipline A, and the NYPD imposed Command Discipline A. § 87(2)(g)
- PO Howell has been a member of service for five years, and this is the first CCRB complaint to which he has been a subject.
- Sgt. Grant has been a member of service for 20 years and has been a subject in two CCRB complaints and two allegations, one of which was substantiated.
 - 201503211 involved a substantiated allegation of refusal to provide medical treatment. The Board recommended Charges. Sgt. Grant was found guilty and forfeited three vacation days.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of October 5, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (BR 39).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 10

Investigator: Maura R. Roche SI Maura R. Roche 06/01/2022
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 6/2/2022

Signature

Print Title & Name

Date

Reviewer:

Signature

Print Title & Name

Date